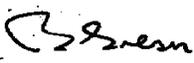


Date: October 31, 2008 Code: TECHNICAL LETTER  
HR/Benefits 2008-13

To: Human Resources Directors  
Benefits Officers

From: Bruce Gibson   
Senior Director  
Human Resources

Subject: 2009 Tax Year Update of Internal Revenue Code (IRC) Limits that Impact Retirement Plans

Overview

Audience: Benefits Officers or campus designee responsible for:

- Communicating information to employees regarding 403(b), 401(k) and/or 457 retirement plans; or
- Administration of the California State University (CSU) Tax Sheltered Annuity (TSA) 403(b) Program; and/or
- Payroll reporting of CalPERS compensation limits.

Affected Employee Groups/Units: All employees eligible to participate in one or more of the above three savings plans

Summary

This technical letter provides campuses with pertinent information with regard to the following:

- 2009 Internal Revenue Code (IRC) elective deferral limits for 403(b), 401(k) and 457 plans; and
- 2009 compensation limits for retirement withholding and defined benefits.

This technical letter should be reviewed in its entirety by Benefits Officers and any designated campus designees responsible for administration of the CSU Tax Sheltered Annuity Program.

**2009 Internal Revenue Code (IRC) Limits**

The 2009 Internal Revenue Code (IRC) limits have been updated to reflect cost-of-living adjustments (COLA), which impact the 402(g), 457(e) (15) and 414(v) limits for 2009. A summary of the 2009 IRC limits is listed below:

Internal Revenue Code Limit	Tax Year 2009
402(g) elective deferral limits for 401(k) and 403(b) plans	\$16,500
457(e)(15) contribution limit for 457 plans	\$16,500
415(c) "percentage of compensation limit" – 100% of adjusted gross salary up to:	\$49,000
414(v) Age Based (50) catch-up contribution limit	\$5,500
401(a)(17) Compensation Limit	\$245,000
415(b) Defined Benefit Plan Limit	\$195,000

**Compensation Limit Increase – IRC 401(a) (17)**

**Distribution:**

CSU Presidents  
Interim Vice Chancellor, Human Resources  
Payroll Managers

Lupe Vela, DPA Savings Plus Program  
Debbie Green, State Controller's Office  
Pam Keegan, State Controller's Office

IRC Section 401(a)(17) caps the annual compensation that can be taken into account in determining contributions and benefits under tax qualified plans. In 2009, this amount increases to \$245,000. Please be advised that CSU employees who first became members of CalPERS prior to July 1, 1996, are exempt from the 401(a) (17) compensation limit.

#### **Defined Benefit Plan Limit Increase – IRC 415(b)**

IRC Section 415(b) places a dollar limit on the annual benefit an individual can receive from a tax qualified pension plan, such as CalPERS. In 2009, this amount is increased to \$195,000. A reduction occurs if benefits start before age 62, and an increase occurs if benefits begin after age 65. CalPERS offers "Replacement Benefits Plan," which will, to the extent allowed by federal and state law, replace any benefits that exceed IRC Section 415(b) limits.

#### **Elective Deferral Limits**

The Internal Revenue Code (IRC) establishes specific limits that govern amounts an individual can contribute to pre-tax salary reduction retirement plans, such as 403(b), 401(k) and 457(b) plans. Two limits determine the amount that an employee may contribute on an annual basis. Effective 2009, the employee may contribute the lesser of:

- 1) The IRC Section 402(g) "elective deferral limit" for 403(b) and 401(k) plans, which is \$16,500; or
- 2) The IRC Section 415(c) "percentage of compensation" limit, which is defined as 100% of adjusted gross salary up to a maximum of \$49,000. (See Attachment A for the definition of adjusted gross salary.) Plus:
- 3) The IRC section 457(e)(15) "deferred compensation deferral limit" for 457 plans, which is \$16,500.

For the 2009 tax year, a participant can elect to contribute up to \$16,500 to a 403(b) or 401(k) plan, subject to the 415(c) limit, AND \$16,500 to a governmental 457(b) plan, for a total contribution of up to \$33,000.

Please note, participants may contribute to both a 403(b) and 401(k) plan in the same tax year, however, combined contributions across both plans cannot exceed \$16,500. For example, a participant may contribute \$8,250 in each plan, or any numeric combination that is equal to or less than \$16,500.

An updated 2009 Plan Comparison Chart specifying these amounts is attached (see Attachment).

#### **Coordination of Additional Catch-Up Contributions**

The following "catch-up" allowances are available as an addition to the IRC Section 402(g) "elective deferral limit," and apply to all or specific retirement savings plans as follows:

- IRC Section 402(g)(7): 15 Year Catch-Up Allowance Exclusive to the 403(b) Plan
  - IRC Section 414(v): Age 50 Catch-Up Allowance Available for 403(b), 401(k), and 457 Plans
  - IRC Section 457(e)(15): Deferred Compensation Deferral Limit Exclusive to the 457 Plan
- 1) IRC Section 402(g)(7) provides a special "catch-up" election for 403(b) tax sheltered annuities (TSA), which permits certain long-term employees to increase their elective deferrals over the 402(g) limit. Under this catch-up election, employees with 15 or more years of service with the same employer may be eligible to contribute an additional \$3,000 per year beyond the IRC Section 402(g) limit for up to 5 years, or a lifetime maximum of \$15,000.
    - For 2009, contributions made under the 402(g) limit and the 402(g)(7) catch-up provision cannot exceed \$19,500 (\$16,500 (402(g) limit), plus \$3,000 (402(g)(7) limit)).
    - Employees who wish to contribute using this catch-up provision must demonstrate eligibility by completing the 2009 CSU Maximum Contribution Allowance Worksheet. The participant must complete a Worksheet for each year he/she wants to contribute more than the annual 402(g) limit.

- Both versions of the CSU Maximum Contribution Allowance Worksheet (paper and electronic) will be updated with 2009 IRC limits, and will be released to campuses in an upcoming e-mail.
- 2) The Age-Based Contribution “catch-up” allowance under IRC Section 414(v), available to employees age 50 and over, increases to \$5,500 in the 2009 tax year. Individuals with a birth year of 1959 or earlier are eligible to participate, and can use this provision in a 403(b), 401(k) or 457(b) plan, provided that they have deferred the maximum amount available to the 403(b), 401(k) or 457(b) plan.
- For 2009, contributions made under the 402(g) limit, and the 414(v) age-based catch-up provision cannot exceed \$22,000 (\$16,500 (402(g) limit), plus \$5,500 (414(v) limit)).
  - If an employee qualifies for both catch-up provisions, contributions in 2009 cannot exceed \$25,000 (\$16,500 (402(g) limit), plus \$3,000 (402(g)(7) limit), plus \$5,500 (414v limit)).
  - In accordance with IRS guidance regarding the coordination of catch-up allowances in 403(b) plans, if an employee meets the qualifications for both the 15 Year and Age 50 catch-up allowances, the 15 Year catch-up must be exhausted before the Age 50 catch-up allowance is applied.
  - Beginning in 2009, 402(g) limits and catch-up allowances will be monitored by the master administrator, AIG Retirement. Additional direction from Systemwide Human Resources regarding certification of the 15 year Catch-up Allowance is forthcoming.
- 3) The 457(b) plan, administered by the Department of Personnel Administration (DPA) Savings Plus Program, has a special provision that allows eligible participants to exceed the maximum annual elective deferral limit during the last three years ending before the plan's normal retirement age. Generally, participants may contribute up to twice the maximum annual contribution amount to a 457(b) plan for each of the three years. (Certain restrictions apply.) In 2009, this amount increases to \$33,000. To enroll in the 457(b) plan, or take advantage of this provision, participants must contact the Savings Plus Program directly. Please note: participants of the Savings Plus 457(b) plan cannot participate in this special catch-up provision and the age based catch-up allowance at the same time.

### **Benefits Portal**

A TSA section on the CSU Benefits Portal provides information for employees, including fund sponsor and enrollment information, forms, etc., and can be located at: <http://www.calstate.edu/hr/benefitsportal/>.

### **CMS Processing Instructions**

This technical letter has no impact on the CMS baseline.

Questions regarding this technical letter may be directed to Michelle Hamilton at (562) 951-4413. This Technical Letter is also available on Human Resources Administration's Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

BG/mh

**2009 INTERNAL REVENUE CODE (IRC) LIMITS AND COMPARISON CHART  
TAX SHELTERED ANNUITY (403[b]), STATE DEFERRED COMPENSATION (457) AND STATE THRIFT (401[k]) PLANS**

*Eligibility: Generally, all employees are eligible to participate in the 403(b) program with the exception of certain student classifications and Special Consultants. The following employees are prohibited from joining the 457 and 401(k) plans: seasonal or temporary employees required to be enrolled in the Part-time, Seasonal and Temporary Employees Retirement Program (PST Program).*

TSA PLAN (403[b])	DEFERRED COMP (457)	THRIFT PLAN (401[k])
Deferred tax on investment	Deferred tax on investment	Deferred tax on investment
\$15 min. contribution per warrant	Initial investment: \$50 minimum; thereafter, \$20 min. contribution per warrant	Initial investment: \$50 minimum; thereafter, \$20 min. contribution per warrant
Variety of investment choices	Variety of investment choices	Variety of investment choices
Assets held by selected fund sponsors	Assets held in trust	Assets held in trust
The lesser of \$16,500/yr, or 100% of adjusted taxable income.*	100% of compensation up to \$16,500/year.*	100% of compensation up to \$16,500/year.*
Hardship withdrawal for severe financial hardship.	Hardship withdrawal for unforeseeable financial emergency.	Hardship withdrawal for severe financial hardship.
Choice of payout method	Choice of payout method	Choice of payout method
Eligible roll over to another employer's 403(b), 401(k)**, or governmental 457(b)** plan, or to a 401(a) plan. In-service 403(b) plan transfers to any of the selected five fund sponsors allowable after January 1, 2009. Eligible rollover to an IRA is based on distributable event (age 59 ½ and/or separation from CSU employment).	Eligible roll over distribution to an IRA, another employer's governmental 457(b), a 401(k), a 401(a), or 403(b) plan.	Eligible roll over distribution to an IRA, or to another employer's 401(k), a 457(b) governmental plan, a 401(a), or 403(b) plan.
Eligible rollover in from another employer's 403(b), 401(k) or governmental 457(b) plan	Eligible rollover in from another employer's governmental 457(b) plan only	Eligible rollover in from a Traditional IRA, another employer's 401(k) plan, or from 403(b)** plan
Surviving spouse of participant may roll over distributions. Non-spousal beneficiary may roll over distributions to an inherited IRA.	Surviving spouse of participant may roll over distributions. Non-spousal beneficiary may roll over distributions to an inherited IRA.	Surviving spouse of participant may roll over distributions. Non-spousal beneficiary may roll over distributions to an inherited IRA.
No tax averaging available	No tax averaging available	See #3 under Notes
15-year "Catch-up" provision may be available for up to \$3,000 per year, for a lifetime maximum of \$15,000. Participants must prove eligibility by submission of completed Maximum Contribution Calculation Worksheet.  Additional \$5,500 age based catch-up deferral for 2009 available to participants who have reached age 50 by the end of the calendar year and who have hit plan or dollar limit, including 15 year catch-up, if eligible.	Special 457 "Catch-up" provision available. Contact the Savings Plus Program for details.  Additional \$5,500 age based catch-up deferral for 2008 available to participants who have reached age 50 by the end of the calendar year and who have hit plan or dollar limit.  Participants in this plan cannot utilize both catch up provisions listed above in the same calendar year.	15-year "Catch-up" provision is not available.  Additional \$5,500 age based catch-up deferral for 2008 available to participants who have reached age 50 by the end of the plan year and who have hit plan or dollar limit.
At least age 55 and retired, or 59 ½ (regardless of employment status) - receive plan payout without tax penalty.	Plan payout upon retirement or separation from State service without tax penalty (no age requirement).	Distributions prior to age 59 ½ may be subject to an early withdrawal tax penalty.

\*403(b) plans apply the 100% limit to the employee's taxable income **PLUS** employee pre-tax contributions to 403(b), 132(f) (pre-tax parking) and 125 plans (Dependent Care Reimbursement Account, Health Care Reimbursement Account, and Tax Advantaged Premium Plan). Employee pre-tax contributions to CalPERS retirement are **not** included. For 401(k) and 457(b) plans, limits are based on 100% of compensation up to \$16,500, for tax year 2009.

\*\*Please note: The Savings Plus Program 457(b) plan **does not** accept rollovers from 403(b) plan distributions. 403(b) rollovers into the 401(k) plan can only be accepted if the employee has an existing 401(k) plan with assets and has a distributable event (reaches age 59-1/2 and/or separates from CSU employment).

**NOTES:**

- Maximum contribution limits for these plans are all interrelated.** If an individual participates in more than one plan in the same calendar year, he/she may be limited by the lowest maximum. Please note: 401(k) and 403(b) deferrals do not count against the 457(b) dollar limit and 457(b) deferrals do not count against the 401(k) and 403(b) dollar limit.
- These statements are general comparisons only.** For specific information refer to your tax advisor. For the Deferred Compensation and Thrift Plans, additional information is available from the Department of Personnel Administration's Savings Plus Program (SPP) Office at (866) 566-4777 or [www.sppforu.com](http://www.sppforu.com).
- Averaging treatment is still available for lump sums paid from a 401(k) plan to grandfathered participants born before January 2, 1936.**